

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, STATE OF FLORIDA**

JOHN DOE, JANE DOE, et al,

CASE NO.:

Plaintiffs

vs.

**THE CITY OF JUPITER POLICE DEPARTMENT and
STATE ATTORNEY'S OFFICE, 15th Judicial
Circuit.**

Defendants.

COMPLAINT FOR AN EMERGENCY DECLARATORY JUDGMENT

COMES NOW, Plaintiffs by and through their undersigned Counsel and file this Complaint for Declaratory Judgment including Injunctive Relief against Defendants and allege as follows:

JURISDICTION and VENUE

1. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.
2. This Court has jurisdiction over this matter pursuant to Sections 86.011 and 26.012, Florida Statutes.
3. Venue is proper in this Court pursuant to Section 47.011, Fla. Stat. in that at least one of the Defendants reside in Palm Beach County and the facts of the underlying case out of which this Complaint arises occurred in this circuit.
4. This Court's minimum jurisdictional amount of \$15,000 is met in that should the relief requested herein not be granted each Plaintiff's economic and noneconomic damages will greatly exceed \$15,000.

UNDERLYING CASE GIVING RISE TO THIS ACTION

5. On February 19, 2019, Sheriff William Snyder of the Martin County Sheriff's Office initiated a press conference where he was joined by the City of Jupiter's Chief of Police, where he announced the imminent arrests of individuals associated with months long investigation surrounding alleged prostitution at several massage parlors located within Martin County and the City of Jupiter, Florida. This investigation has been colloquially referred to as the "Massage Parlor Sting."

6. This press conference and subsequent interviews with various law enforcement officials has resulted in this case drawing national press coverage by television networks and major newspapers who distribute their papers across the country and through the internet, social media coverage, and commentary on this case is at frenzied levels due to the sexual nature of the allegations and the prominence of some of the men who are alleged to have broken the law in this case.

7. The undersigned represents a number of Plaintiffs who have been arrested for solicitation of prostitution stemming from this sting.

8. The undersigned also represents several individuals who have not been arrested but were patrons of the spas under investigation. These Plaintiffs fear their identities will be released by the Defendants to third parties.

9. Plaintiffs have been identified as John Doe, et al, in order to protect their right to privacy while this Complaint is being reviewed by this Court. The inclusion of their true identities is not necessary for this Court to decide this controversy and to grant the relief requested herein.

10. Based upon statements made by law enforcement officials, including employees of Sheriff Snyder, the Martin County Sheriff's Office and the City of Jupiter Police Department, they have confirmed that the City of Jupiter Police Department is in possession of photos, videotapes, audio recordings surreptitiously made of the Plaintiffs allegedly engaging in sexual acts with the spa's masseuses while receiving massages or other spa treatments. These surreptitious videos have been described as depicting graphic sexual acts; all of which occurred behind closed doors within the spa treatment rooms. Neither the masseuse nor the Plaintiffs knew they were being recorded by law enforcement and no consent to this videotaping was given; either impliedly or expressly by either the masseuse or the Plaintiffs.

11. Undersigned Counsel of the Plaintiffs submits that these surreptitious video recordings were unlawfully made and the act of recording the disrobing of spa patrons revealing their partial or total nudity, along with capturing any intimate contact between the masseuse and the patron by law enforcement is a shocking affront to the personal privacy of the Plaintiffs, is an insult to the decency of our society, and is an unprecedented abuse of police powers.

12. The making of these surreptitious videos and photographs were allegedly justified as part of the City of Jupiter's Police Department's investigation of the crime of human trafficking; yet none of the Plaintiffs have been arrested for, nor accused of any intentional acts in furtherance of that crime, and no evidence revealed thus far demonstrate anything other than the consensual acts between two adults. The Plaintiffs had no reason to suspect much less and believe the masseuses were in any way forced into giving any spa treatment.

13. Sheriff Snyder estimated at the aforementioned press conference that up to 20% of the spa customers were women. The captioned use of the fictitious "Jane Doe" in this action is meant to include female spa customers to also be included in this Court's Declaratory Judgment.

14. Sheriff Snyder has also claimed that upwards of 10% of the spa's patrons were there for legal purposes.

15. The State's Attorney's Office for the 15th Judicial Circuit processes and reviews police investigations for the purpose of prosecution. The State's Attorney's Office has or will have copies of the surreptitious videos and other evidence seized or created by law enforcement in this investigation. The State Attorney's Office routinely releases copies of evidence to third parties who make a "public records request" as to a given case.

16. The Defendants to this action are in possession and control of certain documents, reports, photos, recordings, and video/digital recordings related to the "massage parlor sting." As part of their investigations, Defendants have compiled and/or seized a list of customer names and other identifying information regarding who patronized the massage business in question.

17. Any compiled or seized list of customer names has no relevance to any prosecution of an individual, and the public release of such lists will cause irreparable harm to the Plaintiffs' business interests, their reputations, and the reputation of their family members.

18. Similarly, the release by the Defendants of any photo, videotape or audio recording of the Plaintiffs entering a spa, undressing, or receiving a spa treatment would be an unlawful violation of the Plaintiffs' Constitutional right to privacy.

19. Undersigned Counsel submits these video recordings were made in violation of established law and Counsel intends to challenge in court the legality of the law surrounding making surreptitious recordings of customers undressing and receiving spa treatments. However, these legal challenges cannot be brought until the Defendants provide discovery and investigations by counsel are concluded. This time gap between counsel discovery and eventual court challenges may be in excess of 60 days, thus an "emergency" need exists for this Court to enter a Declaratory Judgment including the granting of a temporary injunction against each Defendant to prohibit the release of photos, videotapes, audio recordings and customer lists of the Plaintiffs.

20. Plaintiffs have a good faith belief that if the alleged prurient videotapes were released to third parties, it will result in irreparable harm and further public humiliation, shame, ridicule and cause damage to their reputations and the reputation of their family members.

21. For the class of Plaintiffs who are not alleged to have done anything illicit and will not be arrested, these customers fear that releasing any evidence, specifically their identity as a customer will subject them to "guilt by association" with those arrested for crimes which allegedly occurred at the massage parlors. This association will cause irreparable damage to their lives, including loss of their ability to earn a living, loss of reputation for them and their family members, public humiliation and shame.

22. Given the extraordinary media and community interest in this investigation, Plaintiffs have a well-grounded fear that Defendants will receive, or have received, public record requests from news organizations and individuals seeking the release of the surreptitious recordings made at the massage parlors and reports which list all customer names and other identifying information. Should the video evidence and identifying personal information of Plaintiffs be released, neither Plaintiffs nor this Court will have control over its dissemination and will have no ability to "unring the bell" if this Court would later rule that the evidence was illegally obtained.

23. Under Florida Rule of Criminal Procedure 3.220(1)(1), the trial Court can control the time and scope of discovery in order to protect an individual from harassment, unnecessary inconvenience, and invasion of privacy.

24. Florida's rules governing civil procedure likewise grants to a court the authority to govern the release of evidence in a dispute. This request for Emergency Declaratory Relief embraces both the Rules of Civil and Criminal Procedure along with the equitable power this Court holds in a Declaratory Action to resolve disputes and to settle controversies regarding alleged "rights and immunities" as have been set forth in this Complaint.

25. Plaintiffs submit that the public has no "right" to receive any evidence in this case which reflects video recordings, audio recordings, photographs or spa customer lists.

26. "Florida's Public Records Act" F.S. 119 does not trump the Plaintiffs' Constitutional Right to privacy from governmental intrusion. Furthermore, given the Public Record Act's exemptions, it would be unlawful for the Defendants to release any photo, video or other evidence which may lead to the identification of any of the masseuses who provided spa services to the Plaintiffs. Sheriff Snyder has alleged that these masseuses are each victims of human trafficking.

27. **Under Florida Statute 119.0071(2)(h)(1)(c)** a photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. 810.145, chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim, is exempt from production under Florida's Public Records law.

**CLAIM FOR RELIEF AS TO EACH DEFENDANT – JUPITER POLICE
DEPARTMENT AND STATE ATTORNEY FOR THE 15TH TH JUDICIAL CIRCUIT**

WHEREFORE, Plaintiffs request that this Court:

1. Grant to the Plaintiffs an emergency hearing on this Complaint and enter a judgment declaring that Defendants City of Jupiter Police Department and the State Attorney's Office be prohibited from:

a. Releasing any photo, video, and/or audio recordings taken during the "Massage Parlor Sting" investigation to any third party regardless of whether or not the individual has been arrested, except to the individual's attorney; and

b. Releasing any document which contains the name of an individual not arrested or making any public statement which would reveal a customer's identifying information until that customer is arrested or a warrant has been issued for an alleged crime that occurred at the massage parlors in question.

2. The award of costs for the bringing of this action.

3. Such other equitable or legal relief which this Court may deem necessary and proper.

DATED this 25th day of February 2019.

/s/ Richard D. Kibbey
RICHARD D. KIBBEY, Esq.
KIBBEY | WAGNER
416 SW Camden Avenue
Stuart, FL 34994
Bar No.: 255149
kibbey@kibbeylaw.com

/s/ Jordan R. Wagner
JORDAN R. WAGNER, Esq.
KIBBEY | WAGNER
416 SW Camden Avenue
Stuart, FL 34994
Bar No: 14852
jwagner@kibbeylaw.com
diana@kibbeylaw.com